

Appln. No. 10/554,062
Amdt. dated January 29, 2008
Reply to Office Action of October 30, 2007

Amendments to the Drawings

The attached drawing sheets replace the original sheets including Figs. 10-15.

Attachment: Replacement Drawing Sheets (2)

REMARKS

The Official Action of October 30, 2007, and the prior art cited and relied upon therein have been carefully studied. The claims in the application are now claims 1-4 and 6-17, and these claims define patentable subject matter warranting their allowance. Favorable reconsideration and such allowance are respectfully urged.

Claim 5 has been cancelled. Claims 1-4 and 6-17 remain in the application for consideration.

In response to the Examiner's objection to the drawings, Applicant has enclosed herewith replacement Figs. 10-15 for original Figs. 10-15 which eliminate the problems identified by the Examiner. Applicant respectfully submits that the Examiner's objection to the drawings has now been overcome.

The Examiner has further rejected claims 1-8 and 12 under 35 U.S.C. §102(b) as being anticipated by Rogozinski '425, claims 1-2 under 35 U.S.C. §102(b) as being anticipated by Karpf '166, claims 9-10 under 35 U.S.C. §103(a) as being obvious over Rogozinski in view of Zucherman '948, claim 11 under 35 U.S.C. §103(a) as being obvious over Rogozinski in view of Lawson '423, claims 13-14 and 16 under 35 U.S.C. §103(a) as being obvious over Karpf in view of Zucherman and further in view of Lawson '423, and claim 17 under 35 U.S.C.

§103(a) as being obvious over Karpf in view of Zucherman, further in view of Mast '784. Applicant respectfully traverses all of these rejections as applied to claim 1 as amended.

The claimed intervertebral implant functions as a pressure-absorbing spacer which stabilizes the spondylodesis and ensures that a solid osseous bridge is formed between adjacent vertebral bodies. For a intersomatic spondylodesis, use is made of bone or of a bone replacement material which is inserted between the vertebral bodies. The intervertebral implant is filled with this bone or bone replacement material and inserted between the vertebral bodies. The at least two plates as stated in claim 1 form a fixable joint together with the intervertebral implant.

Rogozinski discloses link members configured to secure adjustment vertebral bodies. Rogozinski clearly does not disclose nor suggest a device for intersomatic spondylodesis. Further, Rogozinski does not disclose nor suggest a hemispherical joint part formed as a unit and protruding transversely from a plate that engages in a hemispherical depression of an implant to form a ball joint as set out in amended claim 1. The joints as disclosed by Rogozinski are clearly not ball joints.

Karpf also clearly does not disclose nor suggest a device or spondylodesis. The implant kit as disclosed by Karpf does not include an intervertebral implant which functions as a pressure-absorbing spacer which stabilizes the vertebral bodies. Karpf also does not disclose nor suggest a hemispherical and protruding joint part which has a passage for a locking screw and which form a ball joint with an implant as set out in claim 1.

Mast discloses only a screw which connects bone plate 20 to a bone 26. The connection between the bone screw 15 and the bone plate 20 and the bone 26 is clearly not a ball joint. Bone plate 20 cannot be moved relative to the bone 26.

With the device according to the claimed invention, the two plates connected to the intervertebral implant can be moved independently of one another in several degrees of freedom and can be fixed at a stable angle in a desired end position which is not taught by the cited prior art combinations.

Applicant respectfully submits that the claimed invention patentably defines over the cited prior art based on the structural differences identified above.

The prior art documents made of record and not relied upon have been noted along with the implication that such documents are deemed by the PTO to be insufficiently

Appln. No. 10/554,062
Amdt. dated January 29, 2008
Reply to Office Action of October 30, 2007

pertinent to warrant their applications against any of
applicant's claims.

Favorable reconsideration and allowance are
earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By



Norman J. Latker

Registration No. 19,963

NJL:ma
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\I\isle\Magerl1\pto\2008-01-29-Amendment.doc